

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

717P0076

## HOUSE BILL NO. 1270

Introduced by: Representatives Faehn, Halverson, Hills, Koistinen, Krebs, Novstrup (Al), Peters, Rounds, Sigdestad, Street, Turbiville, and Willadsen and Senators McCracken, Gray, Hanson (Gary), Katus, Olson (Ed), and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to prohibit improper influence regarding real estate  
2 appraisals and to establish certain penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 36-21B be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 No real estate appraiser with an interest in a real estate transaction or the financing of any  
7 loan secured by real estate involving an appraisal assignment may improperly influence or  
8 attempt to improperly influence the development, reporting, result, or review of a real estate  
9 appraisal by:

- 10 (1) Coercion, extortion, or bribery;
- 11 (2) Withholding or threatened withholding of payment for an appraisal fee;
- 12 (3) Conditioning of the payment of an appraisal fee upon the opinion, conclusion, or  
13 valuation to be reached;
- 14 (4) Requesting that the appraiser report a predetermined opinion, conclusion, or



1 valuation or the desired valuation of any person; or

2 (5) Any other act or practice that impairs or attempts to impair an appraiser's  
3 independence, objectivity, and impartiality.

4 A violation of this section may constitute grounds for discipline against a real estate  
5 appraiser who is registered, licensed, or certified pursuant to the laws of the state of South  
6 Dakota.

7 Section 2. That chapter 36-21B be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 No person violates section 1 of this Act solely by asking a real estate appraiser to consider  
10 additional, appropriate property information, or to provide further detail, substantiation, or  
11 explanation for the appraiser's value conclusion, or to correct errors in the appraisal report, or  
12 by withholding payment of an appraisal fee based on a bona fide dispute regarding the  
13 appraiser's compliance with the appraisal standards adopted by the Department of Revenue and  
14 Regulation pursuant to this chapter. A person does not violate section 1 of this Act solely by  
15 retaining a real estate appraiser from panels or lists on a rotating basis, or by supplying an  
16 appraiser with information the appraiser is required to analyze under the appraisal standards  
17 adopted by the department, such as agreements of sale, options, or listings of the property to be  
18 valued.

19 Section 3. That § 36-21B-7 be amended to read as follows:

20 36-21B-7. The secretary of the Department of Revenue and Regulation may impose a  
21 monetary penalty not to exceed one thousand dollars or require additional educational course  
22 requirements, or both, of a person licensed pursuant to this chapter ~~upon proof of unprofessional~~  
23 ~~conduct, as provided in~~ for a violation of section 1 of this Act, the provisions of this chapter,  
24 any rule promulgated pursuant to this chapter, or the Uniform Standards of Professional

Appraisal Practice as adopted by the department pursuant to chapter 1-26.

Section 4. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as follows:

No mortgage lender, mortgage broker, or mortgage loan originator, required to be licensed or registered by this chapter, with an interest in a real estate transaction or the financing of any loan secured by real estate involving an appraisal assignment may improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal by:

- (1) Coercion, extortion, or bribery;
- (2) Withholding or threatened withholding of payment for an appraisal fee;
- (3) Conditioning of the payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached;
- (4) Requesting that the appraiser report a predetermined opinion, conclusion, or valuation or the desired valuation of any person; or
- (5) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, and impartiality.

A violation of this section may constitute grounds for discipline against a mortgage lender, mortgage broker, or mortgage loan originator who is licensed or registered pursuant to this chapter.

Section 5. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as follows:

No person violates section 4 of this Act solely by asking a real estate appraiser to consider additional, appropriate property information, or to provide further detail, substantiation, or explanation for the appraiser's value conclusion, or to correct errors in the appraisal report, or

1 by withholding payment of an appraisal fee based on a bona fide dispute regarding the  
2 appraiser's compliance with the appraisal standards adopted by the Department of Revenue and  
3 Regulation pursuant to this chapter. A person does not violate section 4 of this Act solely by  
4 retaining a real estate appraiser from panels or lists on a rotating basis, or by supplying an  
5 appraiser with information the appraiser is required to analyze under the appraisal standards  
6 adopted by the department, such as agreements of sale, options, or listings of the property to be  
7 valued.

8 Section 6. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 The director may impose a monetary penalty not to exceed one thousand dollars on any  
11 person licensed or registered with the division pursuant to chapter 54-14, any person employed  
12 by, under contract with, or under the supervision of such licensee or registrant, for any violation  
13 of:

- 14 (1) The provisions of section 4 of this Act;
- 15 (2) The provisions of this chapter; or
- 16 (3) Any rule promulgated pursuant to this chapter.

17 Section 7. That chapter 36-21A be amended by adding thereto a NEW SECTION to read  
18 as follows:

19 No real estate salesperson or real estate broker with an interest in a real estate transaction  
20 or the financing of any loan secured by real estate involving an appraisal assignment may  
21 improperly influence or attempt to improperly influence the development, reporting, result, or  
22 review of a real estate appraisal by:

- 23 (1) Coercion, extortion, or bribery;
- 24 (2) Withholding or threatened withholding of payment for an appraisal fee;

- 1       (3)    Conditioning of the payment of an appraisal fee upon the opinion, conclusion, or  
2            valuation to be reached;
- 3       (4)    Requesting that the appraiser report a predetermined opinion, conclusion, or  
4            valuation or the desired valuation of any person; or
- 5       (5)    Any other act or practice that impairs or attempts to impair an appraiser's  
6            independence, objectivity, and impartiality.

7       A violation of this section may constitute grounds for discipline against a real estate  
8       salesperson or real estate broker who is licensed pursuant to the laws of the state of South  
9       Dakota.

10      Section 8. That chapter 36-21A be amended by adding thereto a NEW SECTION to read  
11      as follows:

12      No person commits unprofessional conduct as provided in section 7 of this Act solely by  
13      asking a real estate appraiser to consider additional, appropriate property information, or to  
14      provide further detail, substantiation, or explanation for the appraiser's value conclusion, or to  
15      correct errors in the appraisal report, or by withholding payment of an appraisal fee based on a  
16      bona fide dispute regarding the appraiser's compliance with the appraisal standards adopted by  
17      the Department of Revenue and Regulation pursuant to this chapter. A person does not violate  
18      section 7 of this Act solely by retaining a real estate appraiser from panels or lists on a rotating  
19      basis, or by supplying an appraiser with information the appraiser is required to analyze under  
20      the appraisal standards adopted by the department, such as agreements of sale, options, or  
21      listings of the property to be valued.